

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.11.2022**

CORAM

THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH

H.C.P.(MD)No.906 of 2022

Manikumar

... Petitioner /Brother of the
Detenue

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (xiv) Department,
Fort St.George,
Chennai-600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tenkasi District,
Tenkasi.

3.The Superintendant of Prison,
Palayamkottai Central Prison,
Triunevleli District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the entire records connected with

the detention order of the respondent No.2 in M.H.S.Confdl No.55/2022 dated 11.05.2022 and quash the same and direct the respondents to produce the body or person of the detenu by name Thiru.Saravanan, Son of Esakki, aged about 34 years, now detained as “Goonda” at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

M.S.RAMESH,J.

and

N. ANAND VENKATESH,J.

The petitioner is the brother of the detenu viz., Saravanan, aged about 34 years, S/o.Esakki. The detenu has been detained by the second respondent by his order in P.D.No.29 of 2022 dated 11.05.2022 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. Apart from the other grounds, the main ground that was urged by the learned counsel for the petitioner is that the detaining authority, after being aware of the fact that the detenu has not filed any bail application, relied upon the order passed in Cr.M.P.No.1170 of 2017, came to a conclusion that there is a likelihood of the detenu being let out on bail. The learned counsel for the petitioner submitted that the order that was relied upon by the detaining authority is not a similar case.

5.The learned Additional Public Prosecutor, on instructions, submitted that the investigation has been completed and charge sheet has been filed and the same has been taken on file in S.C.No.278 of 2022 on the file of the Fast Track Court, Tenkasi and the case stands posted on 05.12.2022.

6.We have carefully went through the order passed in Crl.M.P.No. 1170 of 2017.

7.The order passed in Crl.M.P.No.1170 of 2017 in that case, the Court had taken into consideration the fact that the major portion of the investigation was over and the accused therein had suffered incarceration for a long period of time. On that ground, bail was granted. The facts of that case cannot be considered to be a similar case to the case on hand and hence, the detention order clearly suffers from non application of mind. The impugned detention order is, therefore, liable to be quashed.

8.In the result, the Habeas Corpus Petition is allowed and the order of

detention in M.H.S.Confdl No.55/2022 dated 11.05.2022 passed by the second respondent is set aside. The detenu, viz., Saravanan, aged about 34 years, S/o.Esakki, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (N.A.V.,J.)
29.11.2022

Index : Yes/No

Internet : Yes

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To:

- 1.The Additional Chief Secretary to Government,
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Home, Prohibition and Excise (xiv) Department,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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